

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 12618 of 2007(B)

OPARB.8/2005 of PRL.S.C.,THALASSERY.

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PETITIONER:

**KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VAIDYUTHI BHAVANAM,
PATTOM, THIRUVANANTHAPURAM.**

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB.

RESPONDENT:

**M/S. WESTERN INDIA COTTONS LIMITED,
PAPPINISSERY, KANNUR.**

**BY ADV. SRI.U.K.RAMAKRISHNAN,
SRI.E.K.MADHAVAN,
SRI.P.V.LOHITHAKSHAN.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 31/05/2007,THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C). NO.12618/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE DOCUMENT FILED BY THE RESPONDENT SHOWING THE CORRECTION.

EXT.P.2: COPY OF THE STATEMENT RECEIVED BY THE PETITIONER FROM THE RESPONDENT.

EXT.P.3: COPY OF THE APPLICATION DTD. 20/03/2007.

EXT.P.4: COPY OF THE MEMO FILED BY THE PETITIONER'S COUNSEL IN O.P. (ARB.) 8/2005.

EXT.P.5: COPY OF THE MEMO FILED BY THE PETITIONER'S COUNSEL IN O.P. (ARB.) 3/2006.

EXT.P.6: COPY OF THE APPLICATION FILED IN O.P.(ARB.)8/2005.

EXT.P.7: COPY OF THE APPLICATION FILED IN O.P. (ARB.)3/2006.

EXT.P.8: COPY OF THE APPLICATION FILED IN O.P. (ARB.)8/2005 WITH ENDORSEMENT BY THE COURT.

EXT.P.9: COPY OF THE APPLICATION FILED IN O.P. (ARB.)3/2006 WITH ENDORSEMENT BY THE COURT.

//TRUE COPY//

prv.

M.N. KRISHNAN, J.

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W.P.(C) No. 12618 OF 2007 B
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Dated this the 31st May, 2007

J U D G M E N T

This writ petition is filed for a direction to call for the records leading to the order dated 20-3-2007 and re-post Arbitration O.P. No. 8/2005 and Arbitration O.P. No. 3/2006 for re-hearing and also for a writ of mandamus permitting the petitioner to engage the designated senior counsel in appearing in both the cases without filing the vakalath or memo signed by him on a date fixed by the court.

2. Heard both sides.

3. Arbitration O.P. No. 3/2006 is filed by the Kerala State Electricity Board for setting aside the award and Arbitration O.P. No. 8/2005 is filed by the company to pass a decree in terms of the award under the provisions of the Arbitration Act. The matter was being pursued before the court and on 20-3-2007 the matter was taken up for orders after noting 'heard jointly'. The learned counsel for the writ petitioner would submit that their argument was not heard whereas the other side would contend that the junior argued the case on that day. By the time a writ petition is filed

and a stay is obtained and final orders are not passed in the matter. So, without going into further details it is only just that the matter is heard in full to the satisfaction of the parties by the court before pronouncement of the order. Similarly, it has also to be stated that if a senior designated counsel is to appear the court cannot insist for filing of a vakalath or memo and he be permitted to argue the case. Therefore the writ petition is disposed of as follows:

1. The Sub Court, Thalassery, is directed to re-post and re-hear Arbitration O.P. No. 8/2005 and Arbitration O.P. No. 3/2006.

2. The court should permit the senior counsel to argue the case without insisting for a vakalath or memo of appearance. I am told, the matter is posted to 2-6-2007 and therefore the court in consultation with the advocates, may fix a convenient date for re-hearing and then dispose of the matter in accordance with law.

The Registry is directed to communicate this order to the Sub Court, Thalassery, over phone.

M.N. KRISHNAN
JUDGE

jan/

